

EXHIBIT 16

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5 IN RE: EAST PALESTINE : Case No. 4:23-CV-00242-BYP
6 TRAIN DERAILMENT : Judge Benita Y. Pearson

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8 CONFIDENTIAL - ATTORNEYS' EYES ONLY
9 PURSUANT TO PROTECTIVE ORDER

10

11 VIDEOTAPED DEPOSITION OF SEAN KENNEDY

12 TUESDAY, DECEMBER 19, 2023

13 9:09 a.m.

14 - - -

15 Taken at: Dickie, McCamey & Chilcote, P.C.
16 10 West Broad Street, Suite 1950
17 Columbus, Ohio 43215

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20 Reported By: Carol A. Kirk, RMR/CSR

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22 GOLKOW LITIGATION SERVICES

23 877.370.3377 ph | 917.591.5672 fax

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1 Mr. Schnautz may have said about getting the cars
2 cleared and out of the way and getting the tracks
3 reopened?

4 A. Not specific to clearing cars or
5 anything like that, just that he requested that we
6 put together a text feed with all of the rerail
7 times to include him in that, which is typical of
8 a derailment site like that with multiple cars.

9 And then also a -- he was looking
10 for, like, an overhead view of the derailment site
11 and what -- kind of what the positioning was of
12 the cars that were cleared and which ones weren't.
13 This would have been prior to Wednesday night --
14 or Tuesday night.

15 Q. Okay. Do you recall -- were you
16 involved in trying to get him an overhead or
17 aerial photograph?

18 A. Yes.

19 Q. Tell me about that, please.

20 A. I put together a -- just a Google
21 image of the aerial site kind of snipped from the
22 Google image with some details as far as which
23 cars were cleared, the derailment zone where the
24 rest of the cars were still at in relation to the

1 aerial view.

2 And I remember compiling that with
3 some pictures of the -- of what appeared to be
4 like a rung journal bearing that I would
5 eventually send to Mr. Schnautz via e-mail, along
6 with some others that were on site at the
7 derailment.

8 Q. Okay. And for the jury, could you
9 just generally explain what a rung journal is?

10 A. A rung journal is like when the
11 bearing itself will stop spinning while the axle
12 continues, and it will heat up to a point where it
13 will just kind of ring off of the axle itself.
14 The bearing section will just spin off because of
15 the heat.

16 Q. Okay. And I think we have some of
17 those e-mails and photographs. I'll show you here
18 in a second to help maybe refresh some of your
19 recollection.

20 MR. BOONE: Is this a good time
21 for a break?

22 MR. DENTON: Sure.

23 THE VIDEOGRAPHER: We are now
24 going off record. The time is 10:05.

1 (Recess taken.)

2 THE VIDEOGRAPHER: We are now back
3 on record, and the time is 10:17.

4 BY MR. DENTON:

5 Q. Mr. Kennedy, I want to pick up with
6 about 1:00 p.m. Wednesday, about the time the last
7 car was cleared, okay?

8 A. Yes, sir.

9 Q. Once that last car was cleared, what
10 else, if anything, did you do at the derailment
11 site?

12 A. That was it, getting the last cars
13 cleared.

14 Q. And then did you head back home, or
15 did you stick around, or what did you do, if
16 anything?

17 A. I went back to the hotel, slept for
18 a few hours, and then Wednesday morning went back
19 into work, at Bellevue.

20 Q. Okay. So once the last car was
21 cleared early morning, 1:00 a.m.-ish, on
22 Wednesday, you got out of the derailment site,
23 went to your hotel, slept?

24 A. Right.

1 sir?

2 A. It appears to be the inner part of
3 the axle where the bearing would normally
4 typically be riding.

5 Q. And do you refer to that as the rung
6 journal or is it some other -- or is that part of
7 it?

8 A. That's part of it, yes.

9 Q. Okay. And did you see that rung
10 journal out in this area of weeds, sticks, leaves,
11 whatever it is, at the time it was still there?

12 A. I don't recall if it was still
13 there. I recognize the picture, but I couldn't
14 tell you if that piece was still there or not.

15 Q. Okay. Let's go to the one that has
16 8369 at the bottom.

17 A. Yes, sir.

18 MR. DENTON: Could you blow that
19 up a little bit. There's a round shaped
20 something there in the middle in all
21 those weeds.

22 BY MR. DENTON:

23 Q. Do you see that, sir?

24 A. Yes.

1 Q. What is that?

2 A. It appears to be like the outer seal
3 containment for that -- for a journal bearing.

4 Q. And it looks, I would say, deformed
5 and even melted or burned down at the bottom.

6 Is that fair to say?

7 A. That's how it looks to me, yes.

8 Q. Okay. And this, again, is a piece
9 of information or evidence about the bearing that
10 burnt off and caused this derailment, fair?

11 A. Again, I can't speak to the cause of
12 the derailment, but this is -- this -- these are,
13 you know, data points that were found at the
14 scene.

15 Q. Is there any doubt in your mind or
16 anyone's mind that was out there that the cause of
17 this derailment was a burned off bearing on this
18 GPLX 74 -- 75465 hopper car?

19 MR. BOONE: Objection.

20 A. I can't speak for everybody's
21 feelings on this, but I mean my --

22 Q. Mechanical --

23 A. -- personal opinion is that it's
24 definitely an indicator of the derailment.

1 Q. All right. And you're a mechanical
2 person, true?

3 A. Yes.

4 Q. And you've worked at other
5 derailments involving burnt off wheel bearings and
6 journals, right?

7 A. Yes.

8 Q. And you have actually participated
9 in teams and investigation to conclude, in other
10 derailments, the defective wheel bearings that
11 burn off and have caused those derailments, true?

12 A. Yes.

13 Q. I do want to show you one other
14 text. You're on the string, but I want to ask you
15 about it, if I can.

16 - - -

17 (Kennedy Deposition Exhibit 10 marked.)

18 - - -

19 BY MR. DENTON:

20 Q. This is Exhibit 10. I'll hand that
21 to you, sir.

22 A. Thank you.

23 MR. DENTON: And this is 0786, for
24 display. The full Bates number is

1 CERTIFICATE
2 STATE OF OHIO :
3 COUNTY OF FRANKLIN :
4 I, Carol A. Kirk, a Registered Merit
Reporter and Notary Public in and for the State of
5 Ohio, duly commissioned and qualified, do hereby
certify that the within-named SEAN KENNEDY was by me
6 first duly sworn to testify to the truth, the whole
truth, and nothing but the truth in the cause
7 aforesaid; that the deposition then given by him was
by me reduced to stenotype in the presence of said
8 witness; that the foregoing is a true and correct
transcript of the deposition so given by him; that the
9 deposition was taken at the time and place in the
caption specified and was completed without
10 adjournment; and that I am in no way related to or
employed by any attorney or party hereto or
11 financially interested in the action; and I am not,
nor is the court reporting firm with which I am
12 affiliated, under a contract as defined in Civil Rule
28(D).

13

14 IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal of office at Columbus, Ohio
on this 20th day of December 2023.

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Carol A Kirk

CAROL A. KIRK, RMR

NOTARY PUBLIC - STATE OF OHIO

20 My Commission Expires: April 8, 2027.

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